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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/741,853	12/22/2000	Adrian M. Kristiansen	P 269867 NOR-13169BA	8553
34845	7590	10/22/2004		
STEUBING AND MCGUINNESS & MANARAS LLP 125 NAGOG PARK ACTON, MA 01720			EXAMINER SIDDIQI, MOHAMMAD A	
			ART UNIT	PAPER NUMBER

2154

DATE MAILED: 10/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/741,853

Applicant(s)

KRISTIANSEN ET AL.

Examiner

Mohammad A Siddiqi

Art Unit

2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-28 are presented for examination.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hanco et al. (6,438,141) (hereinafter Hanco) in view of Nagami et al. (6,598,080) (hereinafter Nagami) and further in view of Wilford et al. (6,687,247) (hereinafter Wilford).

4. As per claims 1,12, and 23, Hanco discloses a method , an apparatus, and a computer readable medium encoded with a program for monitoring a network (col 4, lines 44-60) , the method comprising:

receiving (col 7, lines 6-9) at least one data (col 4, line 23) packet (col 6, lines 64-66);

reading (col 14, lines 53-55) an entry of a memory device (col 6, lines 9-13), the entry of the memory device (col 7, lines 6-9) a first statistical value (col 14, lines 55-58) and a second statistical value (col 14, lines 55-58),

determining (col 14, lines 59-60) a third statistical value (col 14, lines 59-67 and col 15, lines 1-3), the first statistical value (col 14, lines 55-67), and the second statistical value (col 14, lines 55-67); and determined third statistical value (col 15, lines 1-10).

Hanko fails to disclose specifically storing the value in a packet or memory device, the one of a content of the at least one data packet contains statistical value.

However, Nagami discloses storing the value in a packet or memory device (col 4, lines 1-8), the one of a content of the at least one data packet contains statistical value (fig 37, lines 5-10).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention is made to combine Hanko with Nagami because it would enhance the prediction of future bandwidth requirements of the sources based on the historical information.

Nagami and Hanko does not explicitly disclose the entry of a single memory location of the memory device, the first statistical value includes a packet count and wherein the second statistical value includes a

byte count. However, Wilford teaches wherein the entry is a single memory location of the memory device (fig 30), wherein the first statistical value includes a packet count and wherein the second statistical value includes a byte count (col 52, lines 42-45). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the combined teaching of Nagami and Hanko with Wilford because Wilford's use of statistical module to determine the network traffic would provide Nagami and Hanko's combined system the monitoring of network traffic.

5. As per claims 2,13 and 24, Hanko discloses the at least one data packet (col 6, lines 64-66) contains a set of data bits (col 9, lines 35-37), wherein the first statistical value (col 11, line 8) includes a count of the received at least one data packet (col 11, lines 1-11), and wherein the second statistical value (col 11, line 8) includes a count of a subset of data bits (col 11, lines 1-11) of the received at least one data packet (col 11, lines 1-11).

6. As per claims 3,14, and 25, Hanko discloses storing the determined third statistical value in the entry of the memory device overwrites one of the first statistical value and the second statistical value (col 14, lines 59-60).

7. As per claims 4,15, and 26, Hanko discloses at least one data packet (col 6, lines 64-66) comprises at least one of SONET, ATM, Ethernet, HDLC, PPP, IP, TCP, and UDP data packet (col 8, lines 1-9).

8. As per claims 5,16, and 27, Hanko discloses the third statistical value comprises updates (col 13, lines 65-66) to at least one of the first statistical value and the second statistical value (col 13, lines 59-67 and col 14, lines 1-15).

9. As per claims 6,17,and 28, Hanko discloses the third statistical value updates at least one of the first statistical value and the second statistical value by at least one of incrementing and decrementing the first statistical value and the second statistical value (col 11, lines 1-11), respectively, by a value (col 14, lines 59-60).

10. As per claims 7,18,and 29, Hanko discloses the third statistical value updates at least one of the first statistical value and the second statistical value by adding a value to the first statistical value (col 9, lines 5-8) and the second statistical value, respectively (col 14, lines 59-60).

11. As per claims 8,19, and 30, Hanko discloses the value comprises a negative value (col 14, lines 59-67).

12. As per claims 9,20,and 31, Hanko discloses the entry of the memory device is associated with the received data packet (col 8, lines 54-65).

13. As per claims 10,21,and 32, Hanko discloses the subset of data bits of the received data packet comprises 8 data bits of the received data packet (col 9, lines 35-45).

14. As per claims 11,22, and 33, Hanko discloses the third statistical value updates at least one the first statistical value and the second statistical value (col 15, lines 1-15) by correcting an error (col 16, lines 1-25) in the at least one of the first statistical value and the second statistical value (col 14, lines 59-67 and col 15, lines 1-15).

Response to Arguments

15. Applicant's arguments with respect to claims 1, 12, and 23 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

16. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

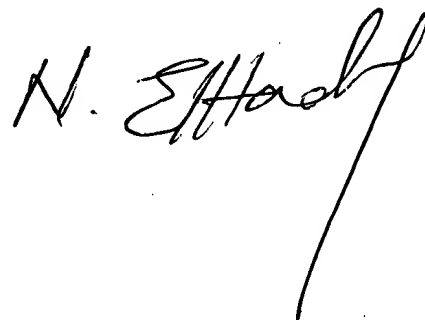
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mohammad A Siddiqi whose telephone number is (703) 305-0353. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John A Follansbee can be reached on (703) 305-

8498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MAS

A handwritten signature in black ink, appearing to read "N. Effendi", with a long, sweeping vertical stroke extending downwards from the end of the signature.